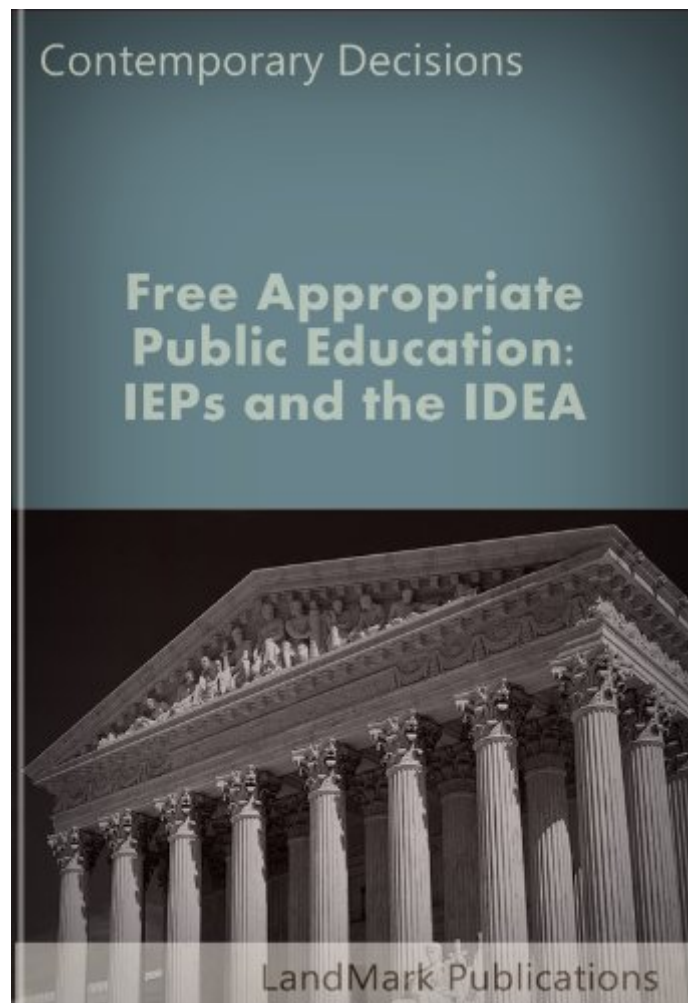




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# Free Appropriate Public Education: IEPs And The IDEA (Litigator Series)



## Synopsis

This casebook contains a selection of 118 Federal Court of Appeals decisions that interpret and apply the statutory mandate of a "free appropriate public education" (FAPE) for states receiving federal education funding under the Individuals with Disabilities Education Act (IDEA). Individual needs are met through the development of an individualized education program (IEP) for each student with a disability. The selection of decisions spans from 2003 to the date of publication. For each circuit, the cases are listed in the order of frequency of citation. The most cited decisions appear first. In *DL v. Baltimore City Board Of School Commissioners*, (2013) the appellants contend that Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 ("Section 504"), compels a school board to provide educational services even though their child is enrolled exclusively in a private religious school. Section 504 states that "[n]o otherwise qualified individual with a disability in the United States . . . shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. . . ." 29 U.S.C. § 794. The implementing regulations for Section 504 require that public schools make a FAPE available "to each qualified handicapped person who is in the recipient's jurisdiction. . . ." 34 C.F.R. § 104.33(a). An appropriate education includes "provision of regular or special education and related aids and services that . . . are designed to meet individual educational needs of handicapped persons. . . ." 34 C.F.R. § 104.33(b)(1). As long as the public schools make a FAPE available, they bear no obligation to pay for a child's education in a private school. 34 C.F.R. § 104.33(c)(4). *DL v. Baltimore City Board Of School Commissioners*, (2013) The court found that "[t]he plain language of the statute and the regulations does not make clear whether public schools are required to provide services to students enrolled in private schools." *Ibid*. Citing the deference owed to the Department of Education's Office for Civil Rights in its interpretation of the statute and regulations, the court ruled that the school board had legitimate financial, curricular, and administrative reasons to require that a child enroll exclusively in a public school in order to take advantage of Section 504 services. *Ibid*.

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